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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,245	12/21/2000	Scott Lee Christopherson	ROC9-2000-0198-US1	9502

7590 11/19/2002  
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EXAMINER

DINH, TUAN T

ART UNIT	PAPER NUMBER
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2827

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/747,245

Applicant(s)

CHRISTOPHERSON ET AL.

Examiner

Tuan T Dinh

Art Unit

2827

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claims 4-6 are canceled without prejudice, the pending claims now are 1-3, and 7-13.

#### *Response to Arguments*

1. Applicant's arguments filed 8/7/02 have been fully considered but they are not persuasive.

#### **Applicant argues:**

(a) Annis does not disclose "a device for protecting components within an electronic system from radiated electromagnetic energy during concurrent maintenance."

Platt in view of Annis does not teach or suggest "concurrent maintenance."

#### **Examiner disagrees.**

Response to arguments (a) and (b), the application to a "concurrent maintenance" in the preamble to claim 1 is not given any patentable weight since there is nothing specific in the invention that adapts this concept specifically to a "concurrent maintenance". Paragraph 2111.02 of the Manual of Patenting Examining Procedure is given below.

The preamble is not given the effect of a limitation unless it breathes life and meaning into the claim. In order to limit the claim, the preamble must be "essential to point out the invention defined by the claim." *Kropa v. Robie*, 88 USPQ 478, 481 (CCPA 1951) (discussed below). In claims directed to articles and apparatus, any phraseology in the preamble that limits the structure of that article or apparatus must be given weight. In *re Stencel*, 4 USPQ2d 1071 (Fed. Cir. 1987) (discussed below).

On the other hand, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a product/process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) (process claims, discussed below); Kropa v. Robie, 88 USPQ 478, 481 (CCPA 1951) (claims directed to apparatus, products, chemical structure, etc.,).

Finally, the device with a functional language, which is "for...during concurrent maintenance" is not positive claim.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Annis et al. (U. S. Patent 5,436,803) in view of Platt et al. (U. S. Patent 5,042,426).

As to claims 1, 7, Annis discloses a **device for** protecting components within an electronic system (12, column 5, line 37) from radiated electromagnetic energy (column 6, lines 21-24) during concurrent maintenance as shown in figures 1-5, the device comprising:

a sheet (10, column 5, lines 37-38) of electromagnetic shielding material sized to overlay a portion of the electronic system (12);

an opening (neck 20-figure 1 having an opening) which is a slit formed in the sheet and sized for accessing the components within the electronic system (12); and

a grounding member (18, column 5, lines 50-51) electrically coupled to the sheet and adapted to be coupled to a ground.

Annis does not teach said grounding member including a wire terminated with a clip for coupling said grounding member to ground.

Platt shows a grounding member (14, column 2, lines 16-17) having a wire (24, column 2, line 29) including a clip (26, column 2, line 31) for coupling the grounding member (14) to ground (GO).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a grounding member including a wire terminated with a clip for coupling a grounding member to ground as taught by Platt to employ the device of Annis in order to prevent an ESD and protect the device to be grounded when cooperated to another source.

As to claim 2, Annis discloses a device as shown in figure 1 wherein the sheet comprises a transparent material.

As to claim 3, Annis discloses a device as shown in figures 1-5 wherein the sheet comprises a flexible shielding material of a metallized polymer (column 6, lines 6-12).

As to claim 8, Annis discloses a device wherein as shown in figure 4 the opening is a closable flap (26, column 7, lines 15-34).

Regarding claims 9-13, the method steps are necessitated by the device structure as it is disclosed by Annis and Platt.

### **Conclusion**

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 703-306-5856. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor David L. Talbott can be reached on 703-305-9883. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3431 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TD  
November 13, 2002.

*Albert W. Paladini 11-18-02*  
ALBERT W. PALADINI  
PRIMARY EXAMINER